



6560-50-P

## **ENVIRONMENTAL PROTECTION AGENCY**

### **40 CFR Part 52**

#### **[EPA-R10-OAR-2014-0139 FRL – 9911-23-Region-10]**

#### **Approval and Promulgation of Implementation Plans; State of Oregon; Approval of Substitution for Transportation Control Measures**

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Final rule; notice of administrative change.

**SUMMARY:** The Environmental Protection Agency (EPA) is making an administrative change to update the Code of Federal Regulations (CFR) to reflect a change made to the Oregon State Implementation Plan (SIP) on December 11, 2013. The EPA has concurred on a substitute transportation control measure (TCM) for the Portland Area Carbon Monoxide Maintenance Plan portion of the Oregon SIP. On January 14, 2014, the Oregon Department of Environmental Quality (ODEQ) submitted a revision to the Oregon SIP requesting that the EPA update its SIP to reflect a substitution of a TCM. The substitution was made pursuant to the TCM substitution provisions contained in the Clean Air Act (CAA). The EPA concurred with this substitution on April 16, 2014. In this administrative action, the EPA is updating the non-regulatory provisions of the Oregon SIP to reflect the substitution. The substitution that the EPA concurred with is an equivalent method for assessing the transit service increase TCM.

**DATES:** This action is effective [Insert date of publication in the Federal Register].

**ADDRESSES:** SIP materials which are incorporated by reference into 40 CFR part 52 are available for inspection at the following location: US Environmental Protection Agency, Region 10, Office of Air, Waste, and Toxics (OAWT-107), 1200 Sixth Avenue, Seattle, Oregon 98101. Publicly available docket materials are available either electronically at [www.regulations.gov](http://www.regulations.gov) or in hard copy during normal business hours at the Office of Air, Waste and Toxics, EPA Region 10, 1200 Sixth Avenue, Seattle, Washington 98101.

**FOR FURTHER INFORMATION CONTACT:** Justin A. Spenillo, EPA Region 10, (206) 553-6125, [spenillo.justin@epa.gov](mailto:spenillo.justin@epa.gov).

**SUPPLEMENTARY INFORMATION:** Throughout this document, wherever “we”, “us” or “our” are used, it is intended to refer to the EPA.

## **TABLE OF CONTENTS**

### **I. This Action**

### **II. Statutory and Executive Order Review**

#### **I. This Action**

On April 16, 2014, the EPA concurred with a determination by the ODEQ and Metro, the metropolitan planning organization for the Portland area, that the replacement of a transit service increase TCM with an equivalent substitute transit service increase TCM met the requirements of CAA section 176(c)(8). (See also EPA's Guidance for Implementing the CAA section 176(c)(8) Transportation Control Measure Substitution and Addition Provision contained in the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users which was signed into law on August 10, 2005, dated January 2009.) This action

provides notice of the EPA's concurrence with this substitution, and codifies the substitute transportation control measure in the Federally approved Oregon SIP. The substitution replaces the existing transit service increase TCM with a TCM containing an equivalent method for assessing the transit service increase. The substituted TCM is: "Transit Service Increase: Regional transit service revenue hours (weighted by capacity) shall be increased 1.0% per year. The increase shall be assessed on the basis of cumulative average of actual hours for assessment conducted for the entire second ten-year Portland Area Carbon Monoxide Maintenance Plan (2007-2017). Transit service increase will be assessed on the basis of fiscal year (July 1- June 30) beginning with FY 2008."

The TCM substitution process is collaborative, and includes participation by all affected jurisdictions and agencies, consultation with the EPA, and reasonable notice and opportunity for public comment. To develop a substitute TCM, the ODEQ and Metro consulted with the Transportation Policy Advisory Committee (TPAC), a technical advisory committee of the Joint Policy Advisory Committee on Transportation (JPACT) that is comprised of elected officials and representatives of agencies involved in transportation in the Portland area and includes representatives from the community, state and regional partners, and local jurisdictions. Public notice and comment was provided by Metro in coordination with the ODEQ. The public notice was published in *The Oregonian* on July 15, 2013, along with being posted on the ODEQ's webpage on July 15, 2013, published in the August 2013 *Oregon Bulletin*, and multiple other forms of notice as described in the docket.

Through the concurrence process, the EPA determined that the requirements of CAA section 176(c)(8) were satisfied, including the requirements that the substitute measures (1)

achieve equivalent or greater emissions reductions than the control measure to be replaced, (2) are implemented on a schedule consistent with the schedule for the existing TCM, (3) have adequate personnel, funding and authority under state or local law to implement, monitor and enforce, and (4) are jointly concurred upon by the ODEQ, the EPA and Metro. Upon the EPA's concurrence, the transit service increase TCM substitution took effect as a matter of Federal law. A copy of the EPA's concurrence letter along with the ODEQ's letter submittal and additional support material is included in the Docket for this action. This letter can be accessed at [www.regulations.gov](http://www.regulations.gov) using Docket ID No. EPA-R10-OAR-2014-0139. In accordance with the requirements for TCM substitution, on January 14, 2014, the ODEQ submitted a request for the EPA to update the Portland Area Carbon Monoxide portion of the Oregon SIP to reflect the EPA's concurrence on transit service increase TCM substitution in its SIP (the subject of this administrative change). Today, the EPA is taking administrative action to update the non-regulatory provisions of the Oregon SIP in 40 CFR 52.1970 (e) to reflect the EPA's concurrence on the transit service TCM substitution.

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State of Oregon Air Quality Control Program				
SIP Citation	Title / subject	State effective date	EPA Approval Date	Explanation
Section 4	Control Strategies for Nonattainment Areas	4.58 12/15/2004;	4.58 1/24/2006, 71 FR 3768;	4.58 Portland Area CO Maintenance Plan 2 <sup>nd</sup> 10-year
		4.58 12/11/2013;	4.58 [Insert date of publication and FR	4.58 Portland Area CO Maintenance

			number]	Plan 2 <sup>nd</sup> 10-year; TCM substitution update 4.58.3.2.2
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Immediate notice of this action in the *Federal Register* benefits the public by providing the public notice of the updated Federally approved Oregon SIP and “Identification of Plan” portion of the *Code of Federal Regulations*.

## **II. Statutory and Executive Order Reviews**

This action does not have federalism implications. It will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132. Thus, Executive Order 13132 does not apply to this action.

Although section 6 of Executive Order 13132 does not apply to this action, the EPA did consult with representatives of state and local governments in taking this action. This action does not have tribal implications, as specified in Executive Order 13175 (65 FR 67249, November 9, 2000), as it does not affect any tribal groups. Thus, Executive Order 13175 does not apply to this action.

Executive Order (EO) 12898 (59 FR 7629 (Feb. 16, 1994)) establishes Federal executive policy on environmental justice. Its main provision directs Federal agencies, to the greatest extent practicable and permitted by law, to make environmental justice part of their mission

by identifying and addressing, as appropriate, disproportionately high and adverse human health or environmental effects of their programs, policies, and activities on minority populations and low-income populations in the United States. The EPA has determined that this administrative action will not have disproportionately high and adverse human health or environmental effects on minority or low-income populations because it does not affect the level of protection provided to human health or the environment.

**List of Subjects in 40 CFR Part 52**

Environmental protection, Air pollution control, Carbon monoxide, Incorporation by reference.

Dated: May 6, 2014.

Dennis J. McLerran,  
Regional Administrator,  
Region 10.

Part 52 of chapter I, title 40 of the Code of Federal Regulations is amended as follows:

**Part 52 - APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS**

1. The authority citation for part 52 continues to read as follows:

**Authority:** 42 U.S.C. 7401 et seq.

**Subpart MM - Oregon**

2. Section 52.1970(e), the table titled “State of Oregon Air Quality Control Program” is amended by revising entry 4.58 under “Section 4: “Control Strategies for Nonattainment Areas” to read as follows:

§ 52.1970 Identification of plan.

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(e) \* \* \*

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State of Oregon Air Quality Control Program

SIP citation	Title / subject	State effective date	EPA Approval Date	Explanation
**	*	*	*	**
Section 4	Control Strategies for Nonattainment Areas			
**	*	*	*	**
		4.58 12/15/2004;  4.58 12/11/2013;	4.58 1/24/2006, 71 FR 3768;  4.58 [Insert date of publication and FR number]	4.58 Portland Area CO Maintenance Plan 2 <sup>nd</sup> 10-year  4.58 Portland Area CO Maintenance Plan 2 <sup>nd</sup> 10-year; TCM substitution update

				4.58.3.2.2
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[FR Doc. 2014-11790 Filed 05/21/2014 at 8:45 am; Publication Date: 05/22/2014]